

the things at the top of the list with our local law enforcement, with Texas DPS, with our Border Patrol. Those are the things that they say: These could be done right now. Go back to building that wall; go back to "Remain in Mexico"; stop this catch-and-release; and abide by title 42.

Today, President Biden, who hasn't been to the border, should go and say: You know what? This Nation is a sovereign nation; we are going to protect this Nation; we are going to protect our citizens; and, therefore, we are going to take these measures because the Border Patrol says this is what works.

The time for treating these policies like political footballs has come to an end. The border crisis doesn't exist in a bubble, and it doesn't just exist at the southern border. What we are seeing along that border is loss of life and loss of livelihoods, and it is happening on a daily basis.

How would you feel? How would you feel if they were running across your crops? How would you feel if they were on your ranch? Think about that one.

It is clear by now that the White House values their "woke" talking points, but there is nothing "woke" about the death and destruction we are seeing tear through this border. There is nothing "woke" about allowing the cartels to overwhelm law enforcement and leave innocent people entrapped by those cartels to die in the desert. There is nothing "woke" about allowing a crisis to fester to make the political case for open borders.

Until President Biden and the Democrats prioritize safety and secure the border they abandoned on the day that they took power and control, every town—every town in this country will be a border town, and every State will be a border State; every community will exist under the threat of cartel violence, and every person in America will bear witness to the desperation and loss of life that their President has seen fit to ignore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

REMEMBERING EARL OLD PERSON

Mr. TESTER. Madam President, thank you for the recognition.

I want to share a few words this afternoon to honor an incredible leader, somebody who is well known to the State of Montana and certainly well known to Indian Country, throughout this country, a personal friend of mine who passed away last week.

The person's name is Chief Earl Old Person of the Blackfeet Nation. He served 56 years as a Tribal councilman. He passed away last Wednesday, October 13, at the age of 92. He was the longest serving elected Tribal official in the United States when he passed. He was a keeper of Tribal history, a tireless advocate, and, for many, he was a national voice for the challenges in Indian Country.

Chief Old Person was born in 1929. He grew up on the Blackfeet Reservation,

where he embraced Tribal culture and, at a young age, performed traditional Blackfeet song and dance across the State and the Nation as an ambassador for the Blackfeet. He even traveled to Paris to represent Indian Country as the only Indian Boy Scout at the World Boy Scout Jamboree in 1947.

It was clear that leadership was in his bones, and in 1954 he was elected to his first term as a Tribal council member, and he became the Tribal council chairman only 10 years later.

Chief Old Person went on to serve as President of the National Congress of American Indians. He played an integral part in creating the Nation's first tribally owned bank, helping to earn him the honor of being named Outstanding Indian of the Year by the Chicago Indian Council.

In 1978, Earl Old Person became Chief Earl Old Person, a title that he would hold with honor until his passing last Wednesday. In his role as chief, he would not only represent the Blackfeet Tribe but all Tribal nations in Montana and on the Governor's task force on Indian affairs and as the chairman of the Affiliated Tribes of Northwest Indians.

He met with every U.S. President from Truman to Obama and had joined the British royal family and Canadian Prime Minister Pierre Trudeau for the Commonwealth Games in 1978. Wherever he went, he was pushing for progress.

There are too many honors and awards for me to name, but Chief Old Person's impact goes far beyond his accolades. He was a wise leader, a world-class orator, and I have heard stories of his words that brought folks to tears.

His shoes will never be filled, but the fact that we had the opportunity to see his leadership in action gives us the roadmap for a brighter future. He will sorely be missed by the Blackfeet Nation, by the State of Montana, by Indian Country across this country, and by my wife Sharla and I as well as countless others who knew him.

This world is a better place because of Chief Old Person and the work that he did. He will never be replaced.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TESTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gustavo A. Gelpi, of Puerto Rico, to be United States Circuit Judge for the First Circuit.

VOTE ON GELPI NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Gelpi nomination?

Mr. TESTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arizona (Ms. SINEMA) and the Senator from New Mexico (Mr. LUJÁN) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from South Dakota (Mr. ROUNDS), the Senator from Florida (Mr. RUBIO), the Senator from Nebraska (Mr. SASSE), and the Senator from North Carolina (Mr. TILLIS).

Further, if present and voting, the Senator from Florida (Mr. RUBIO) would have voted "aye."

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 414 Ex.]

YEAS—51

Baldwin	Hassan	Padilla
Bennet	Heinrich	Peters
Blumenthal	Hickenlooper	Reed
Booker	Hirono	Rosen
Brown	Kaine	Sanders
Cantwell	Kelly	Schatz
Cardin	King	Schumer
Carper	Klobuchar	Shaheen
Casey	Leahy	Smith
Collins	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murkowski	Warnock
Feinstein	Murphy	Warren
Gillibrand	Murray	Whitehouse
Graham	Ossoff	Wyden

NAYS—42

Barrasso	Fischer	Moran
Blackburn	Grassley	Paul
Boozman	Hagerty	Portman
Braun	Hawley	Risch
Burr	Hoeben	Romney
Capito	Hyde-Smith	Scott (FL)
Cassidy	Inhofe	Scott (SC)
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Cramer	Lankford	Thune
Crapo	Lee	Toomey
Cruz	Lummis	Tuberville
Daines	Marshall	Wicker
Ernst	McConnell	Young

NOT VOTING—7

Blunt	Rubio	Tillis
Lujan	Sasse	
Rounds	Sinema	

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Florida.

CHANGE OF VOTE

Mr. SCOTT of Florida. Madam President, on rollcall vote No. 414, I voted no. It was my intention to vote aye; therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER (Mr. HEINRICH). Under the previous order,

the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The PRESIDING OFFICER. The Senator from Alaska.

VACCINES

Mr. SULLIVAN. Mr. President, I want to address a topic this afternoon here in the U.S. Senate that I believe not enough people are talking about. It is something that I certainly heard a lot about when I was back home in Alaska, and I think it is something that millions of Americans are talking about.

But nobody here on the Senate floor is talking about, but we should be because this goes to constitutional authority, and it goes to what I believe means to be an American—freedom, liberty, and it is this: the Executive order that the President—President Biden issued mandating vaccinations for both Federal contractors and private employers.

In essence, what he has said in this Executive order—we are still waiting on the rule—is that employers need to have people who are vaccinated—all their employees by a certain date or they are going to be fired.

That is the President of the United States saying he has that power to force employers to make their employees decide between a vaccination or putting food on the table for their families. Vaccination or you are fired.

We are not talking about that, and this is unprecedented—unprecedented. Never before has a President claimed the authority to actually do this. The military is a different exception. Private employers who have some connection to the Federal Government or otherwise, tell your employees: Get vaccinated or you are fired.

And the President of the United States is claiming the constitutional authority to do that.

I don't even think it is a close call. I don't even think it is a close call. Never been done before, and I don't even think it is a close call whether the President has the constitutional authority to do this.

Think about, if he did, what this could mean for power in other realms that the executive branch or President would have.

Now, I will stipulate right here, I am vaccinated. I have encouraged others to get a vaccine in consultation with their doctors. We all want to put this pandemic behind us, no doubt about it. The vaccinations help with that. But that doesn't mean there should be an excuse to look the other way when the President is acting in an unconstitutional manner.

And there are many reasons, certainly with regard to my constituents, that people might be hesitating with regard to a vaccine. Some of them have health conditions that preclude them from taking a vaccine. Some of them may have serious religious objections to the vaccine. Some of them have his-

tories of abuse and don't trust the Federal Government or the medical establishment. Some of them have dug in their heels and believe the government simply doesn't have the right to tell them what substance to put in their bodies.

The President of the United States is taking this unprecedented—and it is unprecedented—action: Get a vaccine or the Federal Government will mandate you get fired.

It is not just in my view unconstitutional, but it shows contempt for hard-working Americans; contempt that I see percolating again and again among some in the far left.

Think about it. You don't say what you think we should say, you are fired. You work for an industry that used to power America but now is out of favor with some on the left—oil, gas, coal, especially in Alaska, as the Presiding Officer knows—we will shut down your business and we will make sure your employees are fired. You speak your mind about an issue, you are fired. You don't take a vaccine, you are fired.

Oh, by the way, I think the Federal deadline on the vaccination put out by the President is December 8. So you are going to be fired right before the holidays.

Now, as you know, this is a 180-degree turn—180 about-face—with regard to what this body did last year.

What do I mean?

So we worked in a bipartisan way during 2020, when the pandemic hit, particularly the CARES Act. I think every U.S. Senator voted for that. But the other relief that we worked hard on, Democrats and Republicans—when the historians look back at 2020, there are going to be a lot of things, but I think one good thing is they are going to say the Congress of the United States came together, no playbook—we certainly had never seen this before—came together to help the American people; Democrats, Republicans, the President—that was President Trump—on relief.

And here is the thing. This is why I mean it is a 180-degree turn. One of the core principles of all the relief packages that we passed last year—the aviation relief packages that helped our airlines, the PPP—throughout all the relief bills that passed this body in a bipartisan way, one critical component was we need to make sure employers and employees stay connected.

Almost all the relief said: All right. Airline industry, we can't let you go under. You have got to stay safe in terms of the ability to fly for the American people. You are going to get billions and billions and billions in relief, but you can't fire your employees. You have to keep them connected.

The PPP, the estimates are tens of millions of Americans kept their jobs because of that program. You got relief, small business in America, but you can't fire your employees. That was the agreement. That is what we worked on. That was the core principle that

helped us get through the pandemic economically.

Joe Biden is taking a sledge hammer to that connection. It is actually the exact opposite. We are still challenged by the pandemic. Our economy is still challenged.

But what is he doing?

If you don't listen to Joe Biden, private employers in America, you have to fire your employees.

That is exactly the opposite of how this body worked across the aisle, Democrats and Republicans, and the previous President. The approach was this: We are going to help you, but you have to keep your employees. That is the right approach. That is the right approach, and yet no one is talking about this new approach from the new President: Do what I say, even though I don't have the constitutional authority. You have to get a mandate, even though I don't have the constitutional authority. And if you don't, I am going to make sure private employers fire their employees—oh, right before Christmas.

Doesn't anyone have a problem with this?

Well, I have a problem with this. And, again, I think people should get vaccinated. I just don't think the President of the United States has the constitutional authority to tell Americans: Do it or you are going to get fired.

So here is what I hope. I have been reaching out to some of our business leaders to make a respectful request, and it is this: You don't want to fire your employees. Heck, this country doesn't have enough people who are working right now.

You have the Biden economy, which is long lines, superhigh energy prices, people who aren't working, and empty shelves. We need more workers. We certainly don't need the President of the United States telling employers: Fire your people prior to Christmas, but that is what he is doing.

So here is what I think, respectfully, our business leaders should be doing. They should be looking and remembering what we did last year. For example, if you are an airline executive, we all worked really hard to make sure we continued to have air service for America and it was safe and that you kept your employees.

So what our business leaders should be doing is saying respectfully: Mr. President, it is highly unlikely you have this authority, and I don't want to fire my employees.

The best business leaders I know are very loyal to their employees.

So hold off. Don't fire them because Joe Biden says you have to. In the litigation that is going to play out in this country, he almost certainly is going to lose—almost certainly. I don't think there is a court in America that says that the President of the United States, without Congress's permission or passing a law—that the President of the United States on his own—has the